

ASSEMBLY BILL

No. 1136

Introduced by Assembly Member Fong

February 27, 2009

An act to add Section 31760.8 to the Government Code, relating to county employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 1136, as introduced, Fong. County employees' retirement: optional settlements.

The County Employees' Retirement Law of 1937 permits a member or retired member of a retirement system established pursuant to its provisions, prior to the time that the first payment is of any retirement allowance is made, to elect certain optional settlements, which operate to reduce the allowance payable to the member through his or her life and provide for a subsequent payment to another party or parties, including his or her spouse.

This bill would, upon adoption by a county, permit a retired member to revoke certain optional settlements if, at retirement, the retired member was unmarried or had been married less than one year, and the retired member had retired before the county adopted other specified optional retirement settlements. The bill would provide, pursuant to this revocation, that the retired member's allowance be adjusted prospectively and the spouse would be entitled to any provisions for which he or she may qualify as if an optional settlement had not been elected. The bill would prohibit the retired member, after revocation, from electing other optional settlements. The bill would provide that the retirement system has no obligation to locate or otherwise contact retired members who may qualify for a revocation. The bill would

provide that any actions taken, as described above, do not excuse the obligation of a member to provide a continuing benefit to a former spouse pursuant to court order.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 31760.8 is added to the Government
2 Code, to read:

3 31760.8. (a) A retired member, in order to provide for his or
4 her spouse, shall be entitled to revoke an optional settlement elected
5 pursuant to Section 31761, 31762, 31763, or 31764 at the time of
6 retirement, if both of the following criteria are satisfied:

7 (1) The member retired on or before the date the board made
8 Sections 31760.2, 31785.1, or 31786.1 applicable in the county.

9 (2) At retirement, the member was unmarried or had been
10 married less than one year.

11 (b) After revocation, the member's retirement allowance shall
12 be adjusted to the amount he or she would have been entitled to
13 receive at retirement if his or her benefit had not been modified
14 by the optional settlement, adjusted by any cost-of-living increases
15 that would have been added to the retirement allowance. The
16 adjusted retirement allowance shall be effective on the first day
17 of the month following the month in which the member has
18 revoked the optional settlement. After revocation, the member's
19 spouse shall be entitled, as if no optional settlement had been
20 elected by the member, to any provision of this chapter for which
21 the spouse qualifies including, but not limited to, those provisions
22 provided pursuant to Sections 31760.2, 31785.1, or 31786.

23 (c) After revoking an optional settlement pursuant to subdivision
24 (a), a retired member shall not be entitled to elect any optional
25 settlement pursuant to this chapter.

26 (d) Notwithstanding any other provision of this chapter, if a
27 retired member elects to revoke his or her optional settlement
28 election pursuant to this section, the member's retirement
29 allowance shall only be adjusted prospectively. The adjusted
30 retirement allowance shall be effective on the first day of the month
31 following receipt of the member's signed revocation. The member
32 shall not be eligible to recover any payment retroactively for any

1 period between the effective date of his or her retirement and the
2 date of revocation.

3 (e) The retirement system has no obligation to locate or
4 otherwise contact retired members who may qualify for a
5 revocation under this section.

6 (f) No actions taking pursuant to this section excuse the
7 obligation of a member to provide a continuing benefit to a former
8 spouse pursuant to court order.

9 (g) This section is not applicable in any county until the board
10 of retirement, by resolution adopted by a majority vote, makes this
11 section applicable in the county. The board's resolution may
12 designate a date, which may be prior or subsequent to the date of
13 the resolution, as of which the resolution and this section shall be
14 operative in the county.

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